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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

007412.00091

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Signature _____

Typed or printed name _____

Application Number

10/074,743

Filed

02/12/2002

First Named Inventor

Scott Brenner

Art Unit

2424

Examiner

Annan Q. Shang

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

/Christopher M. Swickhamer/

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/06)

Signature

Christopher M. Swickhamer

Typed or printed name

☒ attorney or agent of record.
Registration number 59853

312.463.5000

Telephone number

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____

June 30, 2011

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below.

☐ *Total of _____ forms are submitted.

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THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Attorney Docket No. 007412.00091)

In re U.S. Patent Application of Scott Brenner et al.)	
)	
Application No. 10/074,743)	Group Art Unit: 2424
)	
Filed: February 12, 2002)	Examiner: Shang, Annan Q.
)	
For: System and Method for Providing Video Program Information or Video Program Content to a User)	Confirmation No. 1522

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants respectfully request review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a Notice of Appeal. The review is requested for the reasons stated in the below remarks. Please charge any fees and credit any overpayment to our Deposit Account No. 19-0733.

The following remarks are responsive to the Final Office Action mailed March 30, 2011 ("Action"). Reconsideration of the rejections and allowance of the claims are respectfully requested for at least the following reasons.

Claim Rejections Under 35 U.S.C. § 103

Claims 73-92 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Yeo (US 6,711,741) in view of Lawler et al. (US 6,868,551). Applicants respectfully traverse.

A. Comments on Claim 73 and its Dependent Claims

Claim 73 is drawn to a method comprising:

"receiving, at a terminal, a request to tune to a program being transmitted by a provider, wherein the request is received after a start time of program transmission;

determining, by the terminal, that a user terminal has remained tuned to the program for a predetermined threshold amount of time;

generating and communicating a request to the provider to retrieve a copy of a portion of the program in response to the request to tune to the program and said determining; and

receiving the copy of the portion of the program, wherein the portion comprises the program transmitted.”

The rejection of claim 73 is deficient for at least the following two reasons.

First, both Yeo and Lawler do not disclose the features recited in the determining paragraph of claim 73. In the rejection, the Action concedes that Yeo “does not clearly teach determining that a user terminal has remained tuned to the program for a predetermined threshold amount of time.” *See* Action, p. 4-5. The Action then alleges that Lawler remedies this deficiency. *Id.* at p. 5. Particularly, the Action asserts that “Lawler discloses an interactive program summary panel, which monitors a user interaction as to the various channels and after a predetermined period retrieves summary (text, video, etc.) of the video program to the user.” *Id.*

Notably, the citations to Lawler do not support the Action’s interpretation. Lawler does not disclose monitoring how long a user terminal has remained tuned to a program, and particularly fails to disclose determining whether a user terminal has remained tuned to a program for a predetermined threshold amount of time. Instead, Lawler describes a system including a central control node 12 that transmits programming over a network 14 to multiple viewer stations 16. *See* Lawler, C3, L62-65. Each viewer station 16 is associated with an interactive station controller 20, which Lawler also refers to as a set top box. *Id.* at C4, L3-7. Lawler further indicates providing a programming guide 82 of a display 18 of the viewer station 16 to provide a viewer with information about available programming. *Id.* at C5, L14-25. Lawler describes a viewer selecting on a program tile in the programming guide, and the controller 20 “accesses summary information about the programming focused upon” by the viewer. *Id.* at C6, L11-16.

Of import is that Lawler does not indicate monitoring how long the controller 20 remains tuned to a program, and particularly does not indicate determining whether controller 20 has remained tuned to a program for a predetermined threshold amount of time. The only mention of a time period in the citations is found in lines 20-39 of column 6. At these lines, Lawler merely indicates that “controller 20 periodically (e.g., daily or weekly) receives from EPG database 102 summary text descriptions and related icon bitmaps for a predetermined time period and stores them in memory system 68.” Lawler then indicates that the “controller 20 can retrieve from EPG database 102 the summary text descriptions and related bitmaps of icons that are not available in local memory 68 for the program tile 88 selected or focused upon by the viewer”

which may occur when a viewer selects “a program tile 88 outside the predetermined time period for which the information is stored in memory 68.” In other words, the controller 20 only stores summary text descriptions for programing broadcast during a certain time period (e.g., Monday through Wednesday), and if the viewer wants to view a summary text description of a program being broadcast in a different time period (e.g., Thursday), the controller 20 has to retrieve that summary text description from the EPG database 102. At these cited lines, however, Lawler does not disclose or suggest determining whether controller 20 has remained tuned to a program for a predetermined threshold amount of time, and hence does not disclose performing a method analogous to claim 73. Therefore, contrary to the rejection, the citations to Lawler provided in the Action do not disclose the claim features of “determining, by the terminal, that a user terminal has remained tuned to the program for a predetermined threshold amount of time.” Thus, Yeo and Lawler do not disclose the features recited in the determining paragraph of claim 73.

Second, Yeo does not disclose generating a request in response to the claimed determining paragraph of claim 73. As noted above, the Action concedes that Yeo fails to disclose the claimed determining. *See* Action, p. 4-5. Because Yeo does not disclose the claimed determining, it logically follows that Yeo cannot generate “a request to the provider to retrieve a copy of a portion of the program in response to the request to tune to the program and said determining,” as recited in claim 73. Emphasis added.

The Action, however, incorrectly reaches the opposite conclusion. To support the rejection of the claimed generating of a request, the Action cites to columns 3 and 6 of Yeo. *See* Action, p. 4. In the cited column 3, Yeo describes a temporal snap generator (TSG) 300 that receives video source frames 106 and generates “shots” as well as “temporal snap shots.” *Id.* at C3, L18-32. Yeo defines a “shot” as “a sequence of images captured between a ‘record’ and ‘stop’ camera operation, or in other words, a segment of video source frames 106.” *Id.* Yeo indicates that a “temporal snapshot . . . marks the beginning of a shot.” Notably, these cited lines fail to discuss generating a request in response to “determining . . . that a user terminal has remained tuned to the program for a predetermined threshold amount of time.”

The cited lines in column 6 of Yeo are similarly deficient. In column 6, Yeo indicates that a Random Access Playback System (RAPS) supports multiple networking schemes. *See* Yeo, C6, L32-58. One example is a “multicast/unicast networking mechanism,” where a “server

100 sends a single copy of information over the entire network to multiple desired clients such as client 102.” *Id.* Yeo indicates that “when one of the recipients of server 100’s multimedia stream, like client 102, decides to review information which has already been presented, client 102 initiates the previously described requests by selecting one of the temporal snapshot images to server 100.” *Id.* Such an operation “requires server 100 to extract temporal snapshots on the fly for live video as the video is being multicasted” and for “stored video, the temporal snapshots can be computed before the multicast session.” *Id.* Thus, these cited lines merely discuss that a client 102 can request information from a multimedia stream that has already been presented by selecting a temporal snapshot image.

Notably, these cited lines of Yeo do not indicate that Yeo’s request is generated in response to determining that the client 102 has remained tuned to the multimedia stream for a predetermined threshold amount of time. In fact, the cited lines of Yeo do not even suggest monitoring how long the client 102 has been tuned to a multimedia stream. As such, the Action’s interpretation of Yeo is not supported by the teachings of Yeo, and moreover the teachings of Yeo are not analogous to the features recited in the claimed method. Therefore, Yeo does not disclose “generating and communicating a request to the provider to retrieve a copy of a portion of the program in response to the request to tune to the program and said determining,” contrary to the assertions made in the Action. Lawler also does not disclose the claimed generating at least for the reasons provided above. Therefore, Applicants respectfully submit that the rejection of claim 73 is improper as Yeo and Lawler, alone or in combination, do not disclose all of the elements recited in claim 73. As such, the Action has not established a *prima facie* case of obviousness. Withdrawal of the rejection is respectfully requested. Applicants further solicit notification that claim 73 is allowable.

Independent claims 80, 87, and 90 are allowable at least for reasons analogous to those given in support of claim 73. The remaining claims respectively depend from claims 73, 80, 87, and 90, and hence are allowable at least due to dependence on an allowable claim.

B. Comments on Claim 79 and 86

Claim 79 depends from claim 73 via claim 77 and further recites “determining that the user terminal has maintained the channel selection for a predefined period of time before causing presentation of the synopsis.” Claim 77 recites that a synopsis of a program “summarizes the

portion of the program that has been transmitted from a beginning of program transmission until the identified clock time.” In the rejection, the Action alleges that columns 5 and 6 of Yeo disclose the features recited in claim 79. *See* Action, p. 6. In column 5, Yeo describes a buffering scheme for a client to provide smooth video playback and, in column 6, Yeo describes a hierarchical method of viewing video clips.

Absent from the cited lines of Yeo is any disclosure of monitoring of how long the client maintained a channel selection, or requiring the client to maintain a channel selection for a predefined period of time before causing presentation of a synopsis summarizing a previously transmitted portion of a program. The Action’s citations to smooth video playback and a hierarchical method of viewing video clips from Yeo are not analogous to the claim elements for apparent reasons. Also, the Action does not assert or even point to any section of Lawler as disclosing the features of claim 79. As such, Applicants respectfully submit that claim 79 is distinguishable from the Yeo/Lawler combination and request withdrawal of the rejection under 35 U.S.C. § 103. Applicants solicit a notice indicating that claim 79 is allowable.

Claim 86 is allowable for reasons analogous to those given in support of claim 79.

CONCLUSION

Applicants respectfully submit that the pending claims are in condition for allowance. Favorable reconsideration of this application is respectfully requested. The Examiner is invited to contact the undersigned should it be deemed necessary to facilitate prosecution of the application.

Respectfully submitted,
BANNER & WITCOFF, LTD.

Date: June 30, 2011

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